

STATE OF TEXAS §  
COUNTY OF BEXAR §

WARRANT LOG  
# 980172

### AFFIDAVIT FOR ARREST WARRANT

The undersigned Affiant, **Robert Sholund**, being a Peace Officer under the laws of the State of Texas, and being duly sworn on oath, makes the following statement and accusations:

Your Affiant is assigned to the White Collar Crimes Detail of the San Antonio Police Department and is assigned to investigate crimes of forgery, credit card abuse, identity theft, financial crimes against elderly individuals and other financial related crimes.

The actor in this case has been identified as Douglas Arthur McClain Sr., W.M., DOB . The actor is further identified by SID number, 0991876, hereinafter referred to as the defendant.

On 05-15-2012, your Affiant was assigned a case involving the allegations that the defendant committed the crime of Felony Theft \$100,000 - \$200,000 from an elderly individual. Charles Arnold, the victim in this matter who is 72 years of age, filed a police report under SAPD case number SAPD12093981 with Officer J. Bradley #1443 on 04-30-2012. In the report Officer Bradley wrote the victim told him he had given the defendant \$200,000.00 to cover expenses related to the sale of a coal mine in Kentucky. The victim told Officer Bradley he was contacted by a fraud investigator at his bank who told the victim he believed the victim was being scammed. The victim stated he then contacted the defendant who, in an effort to repay the victim, wrote the victim a \$200,000.00 personal check from the defendant's USAA checking account. The report states the victim went to his and the defendant's bank, USAA Federal Savings Bank, and tried to deposit the check he received from the defendant into his, the victim's, account. The victim was informed by bank personnel that there were insufficient funds in the defendant's account to cover the check in question. The victim told Officer Bradley he believed he was taken advantage of and the defendant had no intention of repaying the victim.

On 05-17-2012, your Affiant contacted the victim by phone. Your Affiant spoke to the victim about the facts of this case and asked the victim to begin preparing a statement in regards to this case.

On 05-23-2012, your Affiant met with the victim at his home. The victim told your Affiant he had met the defendant in August 2011 through his, the victim's, son. The victim stated the defendant presented himself as a devout Christian and a successful businessman. The victim stated his son had known the defendant for about nine years. The victim informed your Affiant the defendant had played a part in helping the victim and the victim's son reconcile past difference. The

victim told your Affiant in December of 2011 the defendant told him he and his family owned a coal mine in Kentucky that they were trying to sell and the defendant's share was to be \$41 million dollars. The victim stated the defendant asked the victim if he could loan him money to cover various legal fees, surveys, etc. in regards to the closing of the sale of the coal mine. The victim stated he understood the defendant to be a millionaire and the defendant told the victim he had invested everything he had to get the sale of the coal mine completed and that the defendant was "all in". The victim stated the defendant told him he could secure additional funding but the potential buyers of the coal mine would find out and try to lower the sales price. The victim stated he agreed to loan the defendant the money. Your Affiant asked the victim if he was to make any profit from the sale of the coal mine or if this was in anyway a business venture with the defendant and the victim stated absolutely not. The victim told your Affiant that he loaned the defendant a total of \$190,250.00. The money in question was given to the defendant by personal checks and account transfers from the victim's USAA account, to the defendant's newly created USAA checking account, . The victim stated that the defendant assured him that all of this money was to go towards expenses related to the sale of the coal mine in Kentucky and that the victim would be repaid no later than April 2012. The victim told your Affiant he was contacted by a fraud investigator from USAA in January of 2012 about a possible scam the victim may be part of and the victim assured the person from USAA that he trusted the defendant. The victim said he received a second call from a Mr. Gamez, Fraud Investigator with USAA, who shared his concerns about the victim possibly being conned or scammed. The victim stated it was at this time he began to have questions as to whether he was being scammed by the defendant. The victim stated he called the defendant with his concerns and that the defendant reassured him everything would be okay. The victim told your Affiant the defendant even came to his home in early January 2012 with a signed promissory note stating the victim would be repaid no later than April 10, 2012 for the money loaned to the defendant. The victim stated that defendant even offered to write him a check for \$200,000.00 and kept reassuring him everything was going to be okay. The victim stated as time passed he became more worried as the sale of the mine kept getting delayed for various reasons and in March of 2012 the victim asked for his money back from the defendant. The victim told your Affiant on March 6, 2012 the defendant gave him a check, #118, for \$200,000.00, drawn off of the defendant's USAA checking account, and asked the victim not to cash the check until after April 10, 2012. The victim stated he agreed and waited. The victim stated the defendant asked for an extension of the deadline for April 25, 2012, 15 additional days. The victim told your Affiant on April 28, 2012 he took the check to USAA Federal Savings Bank to deposit into the victim's account and was told there were no funds in the defendant's account to cover the check #118 for \$200,000.00. The victim stated at that time it was obvious to him that he had been defrauded by the defendant. The victim told your Affiant he wants to pursue charges against the defendant in regards to this case.

On 06-06-2012, your Affiant met with David Gamez, Fraud Investigator for USAA, at USAA. Your Affiant was provided with copies of the victim's and the

defendant's bank statements pursuant to a grand jury subpoena. These statements revealed that monies were deposited and/ or transferred from the victim's account, \_\_\_\_\_, into the defendant's account, \_\_\_\_\_, both at USAA Federal Savings Bank. Gamez also provided your Affiant with copies of the wire transfers from the defendant's USAA checking account. It also became apparent to your Affiant by following the deposits into the defendant's account that the withdrawals were being used for day to day expenses such as eating, shopping, ATM withdrawals, medical payments, paying bills and wire transfers to name a few. When your Affiant originally spoke to the victim he made it clear that from his conversations with the defendant the money he was loaning the defendant was to be used for legal fees, surveys, etc. in regards to the sale of the coal mine in Kentucky.

On 06-09-2012, the victim sent the defendant a demand letter by certified mail demanding the return of all of the money loaned to the defendant.

On 06-19-2012, your Affiant contacted Jim Lyon who is the appointed chapter 7 trustee for the estate of M3 Energy Resources, the coal mine the defendant claimed to own and claimed to be trying to sell when he conned the victim into loaning him money. Lyon informed your Affiant the defendant was not an officer for M3 Energy Resources and all assets of the corporation, M3 Energy Resources, were property of the estate to be liquidated by Lyon and Lyon alone. Lyon also informed your Affiant there was nothing left to sell since all on the debtors had laid claim to the remaining assets. Lyon also told your Affiant that he and he alone and not the defendant nor anyone else had his authority, authorization under law, or the court's authority to sell any assets, of which there were none. Lyon provided your Affiant with documentation that showed the defendant's son was in fact an officer of M3 Energy Resources and not the defendant. The same documentation also shows that M3 Energy Resources LLC filed for bankruptcy in April 2011. The victim told your Affiant he met the defendant in August 2011.

On 07-10-2012, your Affiant received a subpoena return from USAA in regards to both the victim's and the defendant's accounts. The victim already had an existing account with USAA FSB but the defendant's account was opened on 12-09-2011. The initial deposit into the defendant's checking account at USAA was a check for \$26,050.00 from the victim. The defendant deposited a total of \$107,250.00 in checks into his account from the victim. There was also a total of \$100,400.00 transferred from the victim's account and into the defendant USAA checking account. A total of \$207,650.00 was loaned to the defendant by the victim specifically for legal fees, surveys etc. related to the sale of the coal mine in Kentucky. It should be noted that only the defendant is on USAA account number \_\_\_\_\_ and no one else. These records confirm that the defendant conducted six wire transfers totaling \$24,000.00 from his USAA account to five outside accounts. The wire transfers were sent to the following accounts: \$10,000.00 to an attorney in San Diego, \$1,500.00 to a family member in San Antonio, \$2,000.00 to a bank in Savannah, Georgia, \$2500.00 to a person in Clearwater,

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Florida, \$6,000.00 to the defendant's Bank of America and \$2,000.00 to a bank in Savannah, Georgia. After reviewing the defendant's USAA account records your Affiant could not find any transactions related to the sale of the coal mine in Kentucky. Furthermore the defendant's USAA account had a zero balance as of 04-09-2012. According to USAA Fraud Investigator Cheri Sanchez the defendant's account remained at a zero balance from 04-09-2012 until the account was closed on 07-24-2012 by USAA Federal Savings Bank. The checks that were made out to the defendant by the victim were as follows:

- Check #1027, drawn off of the victim's USAA account, , dated 11-09-2011, made payable to the defendant in the amount of \$8,500.00 and signed by the victim. This check was cashed by the defendant at the USAA Federal Savings Bank on 11-09-2011.

- Check #1028, drawn off of the victim's USAA account, , dated 11-21-2011, made payable to the defendant in the amount of \$6,000.00 and signed by the victim. This check was cashed by the defendant at the USAA Federal Savings Bank on 11-21-2011.

- Check #1029, drawn off of the victim's USAA account, , dated 12-09-2011, made payable to the defendant in the amount of \$26,050.00 and signed by the victim. This check was the initial deposit into the defendant's newly created USAA checking account, , on 12-09-2011.

- Check #1030, drawn off of the victim's USAA account, , dated 12-21-2011, made payable to the defendant in the amount of \$24,000.00 and signed by the victim. This check was deposited into the defendant's USAA checking account, , on 12-21-2011.

- Check #1038, drawn off of the victim's USAA account, , dated 12-23-2011, made payable to the defendant in the amount of \$18,000.00 and signed by the victim. This check was deposited into the defendant's USAA checking account, , on 12-23-2011.

- Check #1039, drawn off of the victim's USAA account, , dated 12-29-2011, made payable to the defendant in the amount of \$16,800.00 and signed by the victim. This check was deposited into the defendant's USAA checking account, , on 12-29-2011.

- Check #1040, drawn off of the victim's USAA account, , dated 12-30-2011, made payable to the defendant in the amount of \$7,900.00 and signed by the victim. This check was deposited into the defendant's USAA checking account, , on 12-30-2011.

On 07-25-2012, your Affiant spoke to the victim and the victim told your Affiant he had received the demand letter he sent to the defendant by certified mail on 06-08-2012 back in the mail unclaimed on 07-24-2012.

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Your Affiant believes the defendant intentionally defrauded the victim by deception by having the victim generate and sign seven personal checks totaling \$107,250.00 which represents property owned by the victim for the personal benefit and gain of the defendant. Your Affiant's belief is supported by the following facts. The defendant claimed to be the owner of a in a coal mine in Kentucky, which he was not. The defendant deceived the victim into loaning him money. The defendant told the victim he would use the loaned money for expenses related to the closing sale of the coal mine in Kentucky, which he did not. The defendant refused to repay the victim therefore depriving the victim of the use of his property after reasonable request was made by the victim to the defendant.

**THEREFORE:** your Affiant respectfully requests that a warrant be immediately issued for the arrest of the defendant, Douglas Arthur McClain Sr., charging him with the felony criminal offense of P.C. 32.46 Securing Execution of Document by Deception \$100000 to \$200000 - Elderly.

Respectfully submitted,

*R. Sholund 2424*  
Det. R. Sholund, San Antonio Police Department

Sworn to before me by said Affiant on this the 7<sup>th</sup> day of August, AD, 2012.



*[Signature]*  
Magistrate- San Antonio, Bexar County, Texas

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